IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

NETLIST, INC., Plaintiff, vs. SAMSUNG ELECTRONICS CO., LTD.; SAMSUNG ELECTRONICS AMERICA, INC.; SAMSUNG SEMICONDUCTOR INC., Defendants.	Case No. 2:22-cv-293-JRG JURY TRIAL DEMANDED (Lead Case) [redacted]
NETLIST, INC., Plaintiff, vs. MICRON TECHNOLOGY, INC.; MICRON SEMICONDUCTOR PRODUCTS, INC.; MICRON TECHNOLOGY TEXAS LLC, Defendants.	Case No. 2:22-cv-294-JRG JURY TRIAL DEMANDED

PLAINTIFF NETLIST, INC.'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT ON SAMSUNG'S DEFENSE OF EQUITABLE ESTOPPEL (SAMSUNG CASE NO. 2:22-CV-293) (DKT. 357)

Samsung cannot show "by clear and convincing evidence that '[Netlist's] conduct was ***so inconsistent with an intent to enforce its rights*** as to induce a reasonable belief that such right has been relinquished.'" *Hynix Semiconductor Inc. v. Rambus Inc.*, 645 F.3d 1336, 1348 (Fed. Cir. 2011).

First, Samsung cannot dispute that [redacted] *See* Mot. at 8-9. Nor can Samsung dispute that the [redacted] or that DDR4 is an evolution of the DDR3 standard—literally, it is version number 4 of the same JESD79 standard where DDR3 was version number 3. *See* Dkt. 357-16 (Ex. 15). Samsung (and JEDEC) were aware of the '912 patent's subject matter and claims and could have taken whatever action necessary to avoid infringement; indeed, as discussed below, the DDR4 specification published by JEDEC does not require implementers to use all the elements recited in the '912 patent claim.[1]

Second, Samsung cannot dispute that, as its own expert admits, the '912 patent is not required to implement the DDR4 standards. *See, e.g.*, Dkt. 359-3 (Ex. 2) at ¶ 210 [redacted]. It also does not dispute [redacted].[2] *See* Ex. 29, at ¶ 125. These admissions are fatal to Samsung's defense because they mean Netlist had no duty to disclose the '912 patent to JEDEC in the first place

[1] Samsung's corporate representative [redacted]. *See* Ex. 29, at ¶ 127.

[2] Samsung does not dispute that JEDEC's policies define Standard Essential Claims as those that would "necessarily be infringed" by a standard-compliant product and explicitly exempt claims "covering aspects that are not required to comply with a JEDEC standard," such as optional features or suggested implementations. *See* Dkt. 357-03 (Ex. 2), at 23.

and Samsung was not prejudiced, as it is infringing by choice rather than via standard-compliance.

Samsung attempts to argue that, despite its non-essentiality, Netlist was nonetheless required to disclose the '912 patent because, at some point, it "***believed*** the '912 patent to be essential to DDR4." *See* Opp. at 4-5. Even if Netlist's subjective beliefs were relevant, Samsung's argument is unsupported by evidence. It asserts that [redacted]. *See* Opp. at 7. But Samsung only asserts that [redacted] *Id.* With no evidence that anyone at Netlist believed the '912 patent essential to DDR4, no reasonable jury could infer that [redacted].[3]

Indeed, Samsung's argument regarding Netlist's "belief" is premised solely on a [redacted]—which it concedes the Court already found inadmissible under FRE 408 in *Samsung I*—and its assertion that Netlist's infringement theory is based on "compliance with DDR4 standards." Opp. at 5. This is plainly wrong given Netlist's MSJ on non-essentiality, but even if true it would say nothing about [redacted]. *See* Ex. 30, ¶ 284. Since Samsung's only alleged "prejudice" here is the conclusory assertion that JEDEC would have "considered alternatives for the DDR4 standards that would avoid the asserted claim ***at the time of development***" and that the "relevant [JEDEC] Committees would have evaluated workarounds ***before developing the DDR4 standards***," Netlist's alleged belief regarding essentiality in ***2022*** when it sued Samsung for patent infringement has no bearing on the asserted equitable estoppel defense.[4]

[3] Samsung speculates Dr. Lee will testify differently and asks the Court to defer judgment, but fails to present evidence, much less a sworn declaration required by Rule 56(d), supporting its speculation.
[4] This theory further confirms the irrelevance of Dr. Lee's forthcoming deposition testimony to the motion, as [redacted]. *See* Mot. at 2 (¶ 4); Ex. 7, 85:14-16.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on February 7, 2024, a copy of the foregoing was served to all counsel of record.

/s/ Stephen M. Payne

CERTIFICATE OF AUTHORIZATION TO FILE UNDER SEAL

I hereby certify that the foregoing document and exhibits attached hereto are authorized to be filed under seal pursuant to the Protective Order entered in this Case.

/s/ Stephen M. Payne